IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 15520 of 2000

Between:

Sri.H.V.Krishnarao s/o.Late Ramanaidu
R/o.Madhavanagar Saifabad
Hyderabad.

..... PETITIONER

AND

The Dist and Sessions Judge
Nizamabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue rule nisi calling for the records leading upto and inclusive of the proceedings of the respondent herein bearing D.Dis.No.2670 dated 28-6-2000 and quash the said proceedings of the respondent by issuing an appropriate writ, order or direction more particularly one in the nature of Certiorari.

Counsel for the Petitioner: Mr.C.Upendra for MR.E.V.BHAGIRATHA RAO

Counsel for the Respondent: MR.C.V.NAGARJUNA REDDY

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

By proceedings dated 28-6-2000, the petitioner was asked to remit a sum of Rs.3,600/- alleged to have been withdrawn by him irregularly towards conveyance allowance during the period from August, 1987 to January, 1989 when he was posted as District Judge, Nizambad. The petitioner retired in the month of January, 1989 and recovery was sought to be effected after more than eleven years. The impugned proceedings admittedly were not issued after complying with the basic requirements of law viz., affording an opportunity to show cause. The proceedings being in violation of principles of natural justice, are liable to be quashed and set aside simply on that ground.

Even otherwise, the ground alleged in the petition, which has remained undisputed, is that though the official vehicle was provided to the District for being used by the District Judge as well as the Additional District Judge, but during the period in question, the vehicle was taken away by the Additional District Judge to be used for inspection in various parts of the District. Therefore, the petitioner used his private vehicle and claimed car allowance only for the said period when he used his private vehicle. In other words, car allowance was claimed when the official vehicle was not available to the petitioner. Had an opportunity been afforded to the petitioner, he would definitely have submitted his reply, which obviously could not have been ignored. The impugned proceedings being bad in law, are set aside by allowing the writ petition.

DEVINDER GUPTA, CJ

24-11-2004

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M.NARAYANA REDDY, J

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To

1. The Dist and Sessions Judge, Nizamabad.
2. 2 CCs to the Standing Counsel for the High Court of A.P., Hyderabad, High Court Buildings, Hyderabad (OUT).
3. 2 CD copies.